

**Inland Wetlands and Watercourses Commission
Town of Wallingford**

**SPECIAL MEETING
Wednesday, January 27, 2010**

The Special Meeting of the Wallingford Inland Wetlands and Watercourses Commission was held on Wednesday, January 27, 2010, in Room 205, the Municipal Building, Wallingford, Connecticut.

Seated Commissioners were Jim Vitali – Chairman, Ellen Deutsch – Vice Chairperson, Nick Kern – Secretary, Jeff Kohan, David Parent - alternate, Jim Heilman – alternate, and Environmental Planner Erin O’Hare.

Members from the legal and engineering community in attendance were: Attorney Joan Molloy, Mr. Chris Juliano, Ms. Rosalind Page, Mr. Tim Onderko, and Attorney Patrick Hughes. Also present was Robert Wiedenmann, Sunwood Development.

Chairman Vitali called the meeting to order at 6:01 p.m.

Chairman Vitali stated that this meeting is being held to discuss proposed revisions to the Inland Wetlands and Watercourses Commission Regulations. He indicated that the Commission had asked for comments from local engineers and attorneys on the proposed regulations. The questions and comments that came in would be incorporated into this workshop.

The first section discussed was Section 2 – Definitions.

Mr. Juliano felt that the “Farming” (m.) definition and the “Nurseries” (u.) definition could be combined in some way. After some discussion it was determined that those two definitions would be left as in the proposed revisions.

Attorney Molloy brought up the fact that the term “permit” has been replaced by “license” in several places. She does not feel that those terms are interchangeable. The general consensus was that the term “permit” should remain in the regulations and “license” should be taken out. That change would have to be made throughout the regulations.

Mr. Juliano brought up the definition of “Management Practice” (q.), which included “restrictions on land use or development”. There was discussion about the concept of restrictions. Restrictions could mean different things to different people. It was determined that the phrase, “specific to the protection of wetlands and watercourses” would be inserted after the phrase “restrictions on land use or development”.

Attorney Molloy discussed the language included in “Regulated Activity” (aa.). Her concern was for the wording “likely to impact or effect the wetlands or watercourses”. She doesn’t feel that language belongs in this section. Erin O’Hare, Environmental Planner, stated that the Town

Attorney Janis Small and the DEP both agree with Attorney Molloy and feel that wording should be taken out.

Attorney Molloy discussed Section aa.2. She believes that Sections 2 and 3 should be combined and condensed to make the definitions of surface area and impervious area clearer. After some discussion it was decided that Attorney Molloy would work on new language for Section aa.2 and 3 for the IWWC to consider. The definition "Surfaced area treatments" will be placed in the definitions section instead of here.

Attorney Molloy discussed Section aa.4. She thought that the wording "cutting of vegetation (living or dead)" could cause some problems. It could be interpreted that someone would need a permit or would not be allowed to cut their existing lawn area. The Commission was looking to stop people from cutting vegetation for the purpose of expanding their existing landscaping or lawn. "Cutting of vegetation (living or dead)" would be eliminated and in its place would be "expansion of existing landscaping".

Attorney Molloy believes that Section aa.5 should be tied into Section aa.2. Mr. Heilman suggested replacing "rate" with "volume" in Section aa.5. Mr. Juliano discussed issues he had with that proposed change. He stated that volume couldn't be controlled. Mr. Onderko pointed out that "regulated area" was taken out of the definition section but was still being used in this section. "Upland review area" was not defined in the definition section but it is shown in Figure 1. He feels that everything should be included up front in the definitions. If "regulated area" is not being used anywhere it should be struck everywhere. Ms. O'Hare clarified that the DEP wants any reference to a "regulated area" to be changed to "wetlands and watercourses". Attorney Molloy would take all of the mentioned items into account when revising Sections aa.2 and aa.3.

Attorney Molloy felt that Section aa.6 was very complex and should be simplified. Mr. Juliano feels that the definition for "upland review area" should be pulled out of this section. Attorney Molloy presented the Commission with an example of a similar regulation from Durham.

Regarding the slope provision, after some discussion it was determined that Commissioner Heilman would take another look at the regulation and propose some simplified language. Another issue in that section was where it stated that the entire upland review area boundary should be represented on the plan submitted to the IWWC. Mr. Juliano stated that certain wetlands are huge and they can only show wetlands on the property that they are working on. If they show wetland or upland review area on someone else's property they are placing a limitation or restriction on someone else's property and the engineer does not have the right to do that. Attorney Molloy doesn't believe it should be in this section.

Attorney Molloy and the Commission Members discussed Section kk.

The Commission moved on to review the proposed fee schedule. The biggest issue was with the "Regulated Area Impact Review Fee". Ms. O'Hare stated that this particular fee came from the Town of Cheshire regulations. She stated that she would contact the Town of Cheshire to see how

they actually calculate this fee. Chairman Vitali feels that “each directly affected acre of wetland or part thereof” could be deleted.

There was discussion about the “After-The-Fact “ fee. Ms. O'Hare pointed out that the ability to waive fees is not included in the new proposed regulation because the Town Attorney told her that the Commission could not waive fees. Chairman Vitali asked Ms. O'Hare to get clarification from the Law Department on that issue. Ms. O'Hare stated that the ability for the Commission to waive fees is included in the Model Regulations from DEP.

The Commission moved along to review the Environmental Planner's Report dated January 27, 2010, which discusses Regulation Revisions – Section 5 & 6. Ms. O'Hare stated that she simply added language that was included in the Model Regulations.

The Commission reviewed Regulation Revisions - Section 4 from the Environmental Planner's Report dated November 4, 2009. They specifically discussed Section 4.1.f. The language “stormwater drainage facilities” shall be added to the section. The term “subdivision” shall be replaced with “subsection” in Section 4.1.f. and Section 4.1.b.

Erin O'Hare, Environmental Planner explained that DEP eliminated Section 4.3 from the existing regulations.

The Commission discussed the last line in what would be Section 4.4 regarding the designated agent making rulings on behalf of the Commission. The general feeling was that the current wording should remain in the regulations.

Chairman Vitali set a public hearing to consider the reviewed section for April allowing required time for the DEP review of the amendments.

Chairman Vitali thanked everyone in attendance for his or her participation.

ADJOURNMENT:

Commissioner Deutsch made a motion to adjourn. The motion was seconded by Commissioner Kohan and passed. The meeting adjourned at 9:10 p.m.

Sonja Vining
Recording Secretary
Town of Wallingford
Inland Wetlands and Watercourses Commission
January 27, 2010